

## ADDITIONAL QUESTIONS REGARDING 11 U.S.C. § 330(e) PAYMENTS

### **Do trustees need to continue filing certifications for fiscal year (FY) 2022 cases if no funds are available for § 330(e) payments in those cases?**

Because there will be no payments for FY 2022, the judiciary does not require that certifications continue to be filed in FY 2022 cases. In U.S. trustee districts, trustees with questions about this should contact their U.S. Trustee to be sure that they are in compliance with any guidance issued by the Executive Office for United States Trustees (EOUST).

### **How will chapter 7 trustees be notified that no funds are available for § 330(e) payments in FY 2022 cases?**

The [Bankruptcy Administration Improvement Act Chapter 7 Trustee Payments](#) page on [uscourts.gov](https://uscourts.gov) will be updated to indicate that no funds are available for § 330(e) payments for FY 2022 cases. A GovDelivery message will be sent to all who have subscribed to this page. Additionally, the EOUST has notified regional U.S. Trustee offices, who will notify chapter 7 trustees.

In addition, we have drafted the sample language below that can be posted to your court website or sent to CM/ECF users:

The Department of Justice has announced that there are insufficient funds available for transfer under 11 U.S.C. § 589(a)(f)(1) to pay chapter 7 trustee compensation under 11 U.S.C. § 330(e) in applicable FY 2022 cases. In accordance with 11 U.S.C. § 330(e)(4) and the regulations, the amount for payment in applicable FY 2022 cases is therefore \$0. Despite there being no funds available for applicable FY 2022 cases, trustees should still file their payment eligibility certifications in applicable FY 2023 cases. Additional information, is provided on the [Bankruptcy Administration Improvement Act Chapter 7 Trustee Payments page](#), and more information will be posted on this page about FY 2023 cases when it becomes available.

### **Do the courts need to complete the payment process cycle for FY 2022 cases related to the § 330(e) payments?**

No. Because there are no payments to be made, it is not necessary to complete the payment process cycle as defined in *Guide to Judiciary Policy (Guide)*, Vol. 13, Ch. 11, § 1120.40(e).

**Do the courts need to continue completing the payment process cycle related to § 330(e) payments for FY 2021 cases?**

Yes. Courts should continue to complete the payment process cycle for FY 2021 cases, including sending the Reconciliation Report to [aoml\\_baia2020@ao.uscourts.gov](mailto:aoml_baia2020@ao.uscourts.gov) for confirmation **prior** to certifying payments (as defined in *Guide*, Vol. 13, Ch. 11, § 1120.40(e)), at least once per quarter using the Trustee Services Rendered Under § 330(e) reports for FY 2021 cases.

**Do courts need to continue recording and submitting time spent administering § 330(e) payments in the Data Collection Instrument (DCI)?**

Yes. Time spent on administering § 330(e) payments during FY 2023 will be part of our cost reimbursement request to the Department of Justice (DOJ) at the end of the fiscal year. To ensure the most accurate and defensible request, courts are asked to continue recording and submitting this time in the DCI for FY 2023.

**What should I do with my unused FY 2021 § 330(e) funds?**

Courts should hold these funds until they have paid out all allocated funds for those cases or until all claims have expired and such funds have been returned to the U.S. Treasury, whichever occurs sooner. *See Guide*, Vol. 13, Ch. 11, § 1130. Courts are not required to maintain a subsidiary ledger for these funds, as the Administrative Office of the U.S. Courts (AO) is already maintaining these records. These funds may not be used for any other purpose.

**What is the status of FY 2021 payments?**

For FY 2021 payments, the AO received funds to pay \$60 per applicable case and courts were allotted the funds in June 2022 to make payments. Courts have disbursed payments to eligible trustees for a majority of applicable FY 2021 cases. Courts should continue, at least once per quarter (as defined in *Guide*, Vol. 13, Ch. 11, § 1120.40(e)), completing the payment process cycle for any remaining applicable FY 2021 cases.

**Will there be funds available for FY 2023?**

The AO does not know yet. The funds used to reimburse the judiciary and to make trustee payments originate from excess quarterly chapter 11 fees in the DOJ's United States Trustee System Fund and are determined at the end of each fiscal year. Thus, the AO will not know until the end of FY 2023 whether funds will be available to pay trustees for cases filed or converted to chapter 7 during FY 2023. Courts should continue to report time spent on associated BAIA tasks, and trustees should file the Trustee Certification of Services Rendered for applicable FY 2023 cases.